IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 327 of 2005

Between:

Mohammed Khaja Ahmed Hussain, S/o. Mohammed Masud Ahmad Hussain, R/o. H.No. 11-1556/6, Pochamma Maidan, Mandi Bazar, Warangal - 506012.

..... PETITIONER

AND

The Regional Passport Office, Near Clock Tower, Secunderabad, Rep. by the Passport Officer.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent to receive the application to consider for issuance of fresh passport with correct date of birth of the petitioner, as illegal, arbitrary and violative of Article 14 of the Constitution of India, and consequently direct the respondent to receive the petitioner's application and consider for issuance of fresh passport with correct date of birth of the petitioner as 05-05-1973 as per the Secondary School Certificate.

For the Petitioner: MR.T. DAMODAR, Advocate.

For the Respondent: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court at the stage of admission made the following :

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 327 of 2005

O r d e r:

In this writ petition, the petitioner in effect seeks a direction to the respondent to receive and consider his application for issuance of fresh passport with correct date of birth as 05-05-1973 as per the Secondary School Certificate.

The petitioner states that in the passport bearing No. L 090339 obtained by him on 07-04-1992, which was renewed on 05-05-2002 vide Passport No. E 1444724, his date of birth was wrongly recorded as 05-05-1967 instead of 05-05-1973, and therefore, he made an application dated 17-12-2004 to the respondent seeking correction of his date of birth in the passport as 05-05-1973 instead of 05-05-1967, as per his Secondary School Certificate, but the respondent by letter dated 28-12-2004 returned the application directing him to obtain a declaratory order from the competent civil court inasmuch as the correction of date of birth sought by him on the basis of Secondary School Certificate is different from the one recorded in the certificate issued by another competent authority, on the basis of which the passport was issued initially and renewed subsequently.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government.

The learned counsel for the petitioner submitted that the petitioner applied for the passport application through an agent, and he could not notice the wrong mentioning of date of birth in the passport immediately, and after realizing that his date of birth was wrongly recorded in the passport as 05-05-1967 instead of 05-05-1973, he made an application to the respondent for correction of his date of birth. He also submitted that since the petitioner sought correction of his date of birth in the passport on the basis of the one reflected in his Secondary School Certificate,

the respondent ought not have refused to correct it on the ground that the same is different from the one recorded in the Certificate filed along with passport application and directed him to obtain a declaratory order from civil Court.

The learned Standing Counsel for the Central Government, on the other hand, submitted that the date of birth of the petitioner as entered by the petitioner in the passport application and in the Certificate filed by him along with it in proof of his date of birth, was recorded in the Passport as 05-05-1967, and inasmuch as the petitioner is seeking correction of his date of birth as 05-05-1973 on the basis of the one recorded in the Secondary School Certificate, which is different from the one entered in the Certificate issued by another competent authority, the respondent refused to correct the date of birth of the petitioner and had rightly directed him to obtain a declaratory order from civil Court, and no exception can be taken thereto.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.
No. 1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-4-2001, which are to the following effect:

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

As of today, if any request for correction of date of birth in the Passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions.

The petitioner admittedly obtained passport initially on

7-4-1992, and thereafter got it renewed on 5-5-2002, and though the petitioner contends that his date of birth was wrongly recorded in the passport issued to him, he had not taken any steps to get it corrected at an earliest point of time. Be that as it may, it is the case of the respondent that the date of birth as mentioned by the petitioner in the application for passport and renewal and the certificate produced in support of date of birth, was recorded in the Passport. Basing on what certificate the petitioner obtained the passport is not clear, but it is significant to notice that as on the date when the petitioner obtained passport initially and got it renewed subsequently, the petitioner passed Secondary School Certificate dated 07-05-1989, and it is not known whether the petitioner enclosed the said Certificate or not at the time of obtaining passport and getting it renewed. As the petitioner by the date of obtaining and renewing the passport had already passed the Secondary School Certificate, if his date of birth was wrongly entered in the passport and the date of birth as mentioned in the passport did not match the one reflected in the Secondary School Certificate, he should have brought the same to the notice of the respondent. But the petitioner did not do so. Inasmuch as the date of birth of the petitioner, as filled by him in the application for passport and its renewal and as reflected in the Certificate enclosed by him, was recorded in the passport, and inasmuch as the petitioner was seeking correction of his date of birth on the basis of the one recorded in the Secondary School Certificate, which is different from the one mentioned in the Certificate enclosed by him for obtaining the passport and its subsequent renewal, the respondent had rightly in order to remove the ambiguity as to the correct date of birth of the petitioner, directed him to produce a declaratory order from the civil court as to his correct date of birth so as to effect necessary correction in the passport issued to him, and no exception can be taken thereto.

In the above view of the matter, I see no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: February, 2005.

SVV/KSR

To

1. The Regional Passport Officer, Near Clock Tower, Secunderabad.

2. Two CD copies.